

# City of Santa Barbara's LCP Update

## City Response to Comments Received between January 12, 2018 and February 26, 2018 on the 2018 Planning Commission Review Draft Coastal LUP

### Chapter 2.1 Land Use and Development

- *The policies associated with non-conforming development do not specify whether structures damaged or partially destroyed by fire, flood, earthquake, etc., will be subject to the definitions regarding substantial redevelopment in order to repair and maintain these non-conforming developments*

Response: Projects that involve replacement and repair to existing nonconforming structures following a natural disaster may be exempt from a coastal development permit pursuant to Section 28.44.070 of the City's Municipal Code depending on the scope of the development proposed. This includes the exemption included in Section 28.44.070.I that reads as follows:

*28.44.070.I REPLACEMENT OF EXISTING STRUCTURES DESTROYED BY NATURAL DISASTER EXEMPTION. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this Subsection I, the term:*

- 1. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.*
- 2. "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.*
- 3. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.*

Those projects that do not meet the requirements for exemptions outlined in Municipal Code Section 28.44.070 would require coastal development permits. Those projects that require coastal development would be subject to all of the policies of the Draft Coastal LUP, including the definition of substantial redevelopment and policies requiring that substantially redeveloped structures meet all the policies of the Coastal LUP.

- *Please clarify whether a roof replacement or a wall replacement that does not include a structural component is not within the definition of substantial redevelopment*

Response: The definition of substantial redevelopment for roofs and walls was intended to pertain only to structural elements or framing. Policy 2.1-24 has been amended to clarify

this intent and to ensure consistency with how the issue is addressed in the New Zoning Ordinance.

### **Chapter 3.1 Public Access**

- *Support for Policy 3.1-14, which includes measures for parking supply and management. Suggestion for the City to host or sponsor a design charrette to consider solutions for parking, circulation, and pedestrian safety in the funk zone.*

Response: Comments noted. This Draft Coastal LUP contains policies that focus on parking, sustainable transportation, circulation, and pedestrian uses only as they relate to the Coastal Act protections for public access to the shoreline and coastal recreation. Consideration of specific future changes to parking, circulation, and pedestrian safety in the funk zone are outside the scope of this current work effort.

### **Chapter 4.1 Biological Resources**

- *The draft LUP does not acknowledge the fact that critical habitat has been designated within the plan area for the federally endangered tidewater goby and federally threatened western snowy plover. Critical habitat areas for western snowy plover and tidewater goby within the City's jurisdiction should be mapped and discussed in the Draft Coastal LUP. The document should also note that tidewater goby has also been found in the Andree Clark Bird Refuge outflow lagoon near Cabrillo Boulevard.*

Response: In response to comments from the USFWS, text to Chapter 4.1 has been added to discuss the critical habitat designations for western snowy plover and tidewater goby and to add the outflow lagoon of the Andree Clark Bird Refuge as a place where tidewater goby has been found. In addition, these critical habitat designations have been added to Figure 4.1-2 which shows areas of potential importance for wildlife (see Exhibit C).

In order to fully respond to this comment, and others regarding western snowy plover critical habitat areas, City staff had several additional conversations with USFWS and CCC staff since January 11th. Through these conversations it was clarified by both agencies that the critical habitat designation for the western snowy plover on West Beach and East Beach does not mean these areas should automatically be considered Environmentally Sensitive Habitat Areas (ESHAs) and designating any area ESHA would depend on the activities of the birds on the ground at these locations. If western snowy plover were to regularly nest in an area, then that would be considered ESHA. However, the foraging and roosting habitat contained currently to an area of East Beach would not be considered ESHA at this time. Western snowy plover have not been found on West Beach recently and this area would also currently not be considered an ESHA.

Regardless of the ESHA determination, however, the Draft Coastal LUP contains several policies that protect development from impacting western snowy plover and its habitat pursuant to the mandates of the Federal Endangered Species Act. Policy 4.1-32 protects the intertidal area and 10 feet from the wrack line from disturbance from beach grooming and other activities. Policy 4.1-33 requires management measures to avoid impacts to western snowy plover including monitoring. Further, Policy 4.1-34 prohibits new development such as temporary events and beach volleyball courts in the areas used for roosting by the western snowy plover during the overwintering season.

## Chapter 4.4 Cultural Resources

- *Support for the clear guidelines in the section. It is difficult to make out the borders of zones in Figure 4.4-1.*

Response: Figure 4.4-1 will be revised for the 2018 Council Review Draft Coastal Land Use Plan so that Archaeological Resources Sensitivity Areas borders are more clearly depicted.

## Chapter 5.1 Hazards

- *Suggestion for defining “minor” and “easily removable” in Policy 5.1-32 as it relates to minor development allowed in coastal bluff edge development buffers. Request to allow within the coastal bluff edge development buffer minor structures such as a garden pavilion, pergola, and replacement of existing concrete patios, where it can be demonstrated that the development will not have a deleterious effect on bluff stability, life safety, and visual resources.*

Response: Policy 5.1-32 was modified in the 2018 Planning Commission Review Draft Coastal LUP to further clarify that “easily removable” means that it can be removed without mechanized equipment. Additionally, Policy 5.1-32 has been changed to clarify the intent to define a specific list of minor development types that may be allowed in the Coastal Bluff Edge Development Buffer. While not clear in the original version, it was not the intent to have an open ended category of minor development to be interpreted later. Given that it is now a specific list, it is not necessary to further define “minor” or “easily removable.”

City staff is not recommending that the list of minor development allowed within the Coastal Bluff Edge Development Buffers be expanded to include structures such as garden pavilions or pergolas or replacement of existing legal concrete patios. While these structures may not degrade slope stability, they are harder to remove, often require some kind of foundation, can be visually obtrusive, are more likely to be perceived as ‘permanent’, and further encourage use of an area that is subject to bluff failure and erosion hazards.

The policies in the Draft Coastal LUP were designed with the goals to retain beaches wide enough for lateral access along the beach and to keep the natural quality of the coastal bluffs and bluff backed beaches. In order to achieve these goals, it is important to discourage development near the coastal bluff edge that could prevent the coastal bluffs from naturally eroding or which could otherwise decrease beach widths. In addition, there have been problems in the past with landowners not removing development imminently threatened by bluff erosion and slope failure, leading to situations where the development falls onto the coastal bluff face and/or beach. This problem can be seen along many of the bluffs and bluff backed beaches west of Leadbetter Beach all the way to Sea Ledge Lane where large chunks of concrete from old patios can be found on the beach and remnants of fallen structures, fences, retaining walls, patios, and other debris have fallen onto coastal bluff faces.

Policy 5.1-32 in the Draft Coastal LUP attempts to balance the desire of home owners to use the area next to the coastal bluff for scenic viewing with the goal to limit the amount of new development in areas subject to coastal bluff failure and erosion. In discussions with CCC staff on this issue, they have expressed a desire to keep as much development as

possible outside the coastal bluff edge development buffer, particularly in light of new information on sea level rise.